

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| <p>IN RE:</p> <p>IOWA DEPARTMENT OF JUSTICE, OFFICE OF CONSUMER ADVOCATE,</p> <p style="text-align:right">Complainant,</p> <p style="text-align:center">v.</p> <p>AMERICA'S TELE-NETWORK CORP. and JOHN W. LITTLE, President of America's Tele-Network Corp.,</p> <p style="text-align:right">Respondents</p> | <p style="text-align:right">DOCKET NO. FCU-00-6</p> |
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**ORDER GRANTING MOTION FOR PERMISSION TO OFFER
ADDITIONAL TESTIMONY**

(Issued June 7, 2001)

On May 24, 2001, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a Request for Permission to Offer Additional Testimony. The requested additional testimony was limited to Utilities Board "custom and practice relating to the mailing of copies of complaints and the proposed resolution of complaints to respondents," and "The contents of the original records of the complaints at issue in this proceeding or a certified copy of these records at issue in this proceeding, including the absence of a statement or entry and the nonoccurrence or nonexistence of matters in the complaint records at issue."

In an order issued May 31, 2001, the time for response to the motion was shortened, and America's Tele-Network Corp. (AT-N) had until June 5, 2001, to file its response.

AT-N did not file a response to the request. However, on June 5, 2001, the Consumer Advocate filed an amendment to its motion. In the amendment, the Consumer Advocate stated "In lieu of the foregoing, OCA proposes to offer into evidence an Affidavit of Iowa Utilities Board personnel explaining: (1) the custom and practice relating to the mailing of copies of complaints and the proposed resolution of complaints to respondents; and (2) the maintenance and contents of complaint files." The Consumer Advocate did not submit a copy of the proposed affidavit with the amended motion.

Iowa Code §17A.14 sets forth the rules of evidence for contested cases, and provides that "irrelevant, immaterial, or unduly repetitious evidence should be excluded," and that findings of fact "shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based on such evidence even if it would be inadmissible in a jury trial."

Without having seen the affidavit, it appears at this time that the subject of the requested affidavit may meet the requirements of Iowa Code §17A.14. The Consumer Advocate should immediately provide a copy of the proposed affidavit to counsel for AT-N. The Consumer Advocate may offer such affidavit at the hearing.

Its admissibility and any objections to the affidavit by AT-N will be ruled on at the hearing.

IT IS THEREFORE ORDERED:

1. The amended motion filed by the Consumer Advocate on June 5, 2001, is hereby granted. The Consumer Advocate may offer the proposed affidavit at the hearing on June 12, 2001.
2. The Consumer Advocate must immediately provide a copy of the affidavit to counsel for AT-N.
3. The admissibility of the affidavit and any objections to the affidavit by AT-N will be ruled on at the hearing.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

Dated at Des Moines, Iowa, this 7th day of June, 2001.